



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

ELP
Docket No. 4079-98
5 August 1999

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

Ref: (a) 10 U.S.C. 1552

Encl: (1) DD Form 149 w/attachments
(2) Case Summary
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlistment member of the United States Navy filed enclosure (a) with this Board requesting, in effect, changes in his entry level separation and reenlistment code.

2. The Board, consisting of Ms. Humberd, Mr. Caron, and Mr. Ivins, reviewed Petitioner's allegations of error and injustice on 4 August 1999 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Enclosure (1) was filed in a timely manner.

c. Petitioner enlisted in the Navy on 4 February 1998 for four years at age 23. The record reflects that on 11 February

1998 he was admitted to the hospital with a diagnoses of rhabdomyolysis and urethritis. He was released on 17 February 1998 and placed in the recruit convalescent unit with orders for no military drilling or exercise during the next seven days. However, that evening he reported to the emergency room complaining of pain in right upper arm, shoulder, lower back, and dizziness from marching. He stated that he reported no pain in the morning, even though pain was present, because he wanted to get out of the hospital and back to training. He expressed frustration of being in the convalescent unit and not being able to exercise. He was advised that exercise would only worsen his condition and could result in kidney failure. Later, he reported he had symptoms of the condition once in high school and once in college. An entry level medical separation was recommended for rhabdomyolysis, a condition which existed prior to service.

d. Petitioner was notified that he was being considered for administrative separation by reason of defective enlistment and induction due to erroneous enlistment as evidenced by the foregoing condition. He was advised of his procedural rights, declined to consult with counsel, and chose to waive his rights. Thereafter, the discharge authority approved the separation due to erroneous enlistment. On 26 February 1998 he received an uncharacterized entry level separation by reason of "Failed Medical/Physical Procurement Standards", and was assigned an RE-4 reenlistment code.

e. Regulations provide that individuals who are discharged within the first 180 days of active duty will receive an uncharacterized entry level separation. An honorable characterization of service is warranted for an individual in an entry level status only if unusual circumstances are present involving personal conduct and the performance of naval duty; the separation is for selected changes in service obligation, convenience of the government, disability, or best interests of the service; and the Chief of Naval Personnel or the Secretary of the Navy approves such a characterization.

f. Regulations authorize the assignment of an RE-3E or RE-4 reenlistment code to individuals who are discharged by reason of failed medical/physical procurement standards. An RE-3E reenlistment code means that the individual was separated due to

erroneous enlistment. An RE-4 reenlistment code means that the individual is not eligible for reenlistment without prior approval from Commander, Naval Personnel Command.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrant partial favorable action. In this regard, the Board notes Petitioner had no disciplinary problems during his short period of service. While there is evidence that Petitioner's condition existed prior to service, there is no evidence that he knew the exact nature of his condition or was aware of its serious nature. Absent evidence to the contrary, the Board does not believe the assignment of the restrictive RE-4 reenlistment is warranted. The Board concluded that it would be appropriate and just to change the reenlistment code to RE-3E to correspond with the reason for discharge. However, the Board concluded that since Petitioner had less than 180 days service when separated and none of the exceptions to the general rule apply, his uncharacterized entry level separation was appropriate and no change is warranted.

RECOMMENDATION:

- a. That Petitioner's naval record be corrected by changing the RE-4 reenlistment code, assigned on 26 February 1998, to RE-3E. This should include the issuance of a new DD Form 214.
- b. That no further relief be granted
- c. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.
- d. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross references being made a part of Petitioner's naval record.

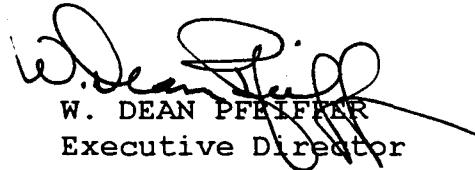
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder



ALAN E. GOLDSMITH
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6 (e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.



W. DEAN PFEIFFER
Executive Director